

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

United States Court of Appeals
Fifth Circuit

FILED

June 17, 2009

No. 08-10193
Consolidated w/ No. 08-10540

Charles R. Fulbruge III
Clerk

THE VERIZON EMPLOYEE BENEFITS COMMITTEE

Plaintiff - Appellant-Cross-Appellee

v.

MICHAEL FRAWLEY

Defendant - Appellee-Cross-Appellant

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 3:05-CV-2105

Before GARZA and PRADO, Circuit Judges.*

PER CURIAM:**

AFFIRMED. *See* 5TH CIR. R. 47.6.

* Judge HIGGINBOTHAM heard argument in this case but thereafter recused. The case is being decided by a quorum. 28 U.S.C. § 46(d).

** Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.